

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB DEPRATU**, on April 6, 2001 at 8:05 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Alvin Ellis Jr., Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Linda Ashworth , Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 639, 3/31/2001; HB 642,
3/31/2001; HB 644, 3/31/2001
Executive Action: HB 639; HB 642; HB 644; HB
600; HB 619; HB 623; HJR 2

HEARING ON HB 639

Sponsor: REP. DEBBY BARRETT, HD 34, Dillon

Proponents: Jason Thielman, Chief Deputy Secretary of State

Opponents: None

Opening Statement by Sponsor:

REP. DEBBY BARRETT opened on HB 639, submitting written testimony, **EXHIBIT**(tas78a01).

{Tape : 1; Side : A; Approx. Time Counter : 0 - 5}

Proponents' Testimony:

Jason Thielman, Chief Deputy Secretary of State, avowed support for HB 639. He contended the Secretary of State's Office does not operate with general funds, since it is a proprietary agency. The bill would revise the fees charged by the Secretary of State and eliminate the requirement that the fees be commensurate with cost on a fee-by-fee basis. The fees would also be reasonably commensurate with overall costs of the office, reflect prevailing rates for similar services and require the fees be paid into an enterprise account. The bill would allow better management of the Office of Secretary of State.

{Tape : 1; Side : A; Approx. Time Counter : 5 - 10}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. DEBBY BARRETT closed on HB 639, reiterating it was vital to the funding, the operation and the efficiency of the Office of the Secretary of State.

EXECUTIVE ACTION ON HB 639

Motion/Vote: SEN. STONINGTON moved that HB 639 BE CONCURRED IN. Motion carried unanimously.

HEARING ON HB 642

Sponsor: REP. BOB STORY, HD 24, Park City

Proponents: Curt Nichols, Budget Office

Opponents: None

Opening Statement by Sponsor:

REP. BOB STORY testified that HB 642 would be an act to clarify the distribution of oil and natural gas production taxes for the purposes of the resource indemnity and ground water assessment tax. He held the statutes indicated \$600,000 per year should be going into the program at the School of Mines with \$300,000 of that money being deposited into the grant and loan program.

{Tape : 1; Side : A; Approx. Time Counter : 10 - 13}

Proponents' Testimony:

Curt Nichols, Budget Office, echoed the bill would make the distribution of funds consistent with the way the legislature had appropriated the funds through the interpretation of the law. He punctuated his testimony with additional information, **EXHIBIT (tas78a02)**.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. MACK COLE, questioned how HB 642 would coordinate with legislation sponsored by **REP. BALES**. **REP. STORY** explained that **REP. BALES'** bill wouldn't affect money coming into the fund. It would take \$400,000 per year and put it into a separate fund.

SEN. COLE queried whether royalties from extracted minerals would be affected by the bill. **REP. STORY** maintained the bill would only deal with the distribution of funds.

Closing by Sponsor:

REP. STORY closed on HB 642.

SEN. COLE agreed to carry the bill on the floor.

{Tape : 1; Side : A; Approx. Time Counter : 13 - 19}

EXECUTIVE ACTION ON HB 642

Motion/Vote: **SEN. STONINGTON** moved that **HB 642 BE CONCURRED IN**. Motion carried unanimously.

HEARING ON HB 644

Sponsor: REP. JEFF PATTISON, HD 95, Glasgow

Proponents: Mike Allan, Ethanol Producers and Consumers
Carol Lambert, Woman Involved in Farm Economics
(WIFE)
Bob Stephens, Montana Grain Growers Association
Nancy Schlepp, Montana Farm Bureau

Opponents: None

Opening Statement by Sponsor:

REP. PATTISON opened on HB 644, relating that the bill would encourage economic development by creating an energy market demand in Montana for agricultural-based biofuels. The act would tax gasohol and biodiesel at a percentage of the rate for gasoline or special fuels. REP. PATTISON offered additional written testimony on the definition of ethanol, EXHIBIT (tas78a03), the process of producing ethanol, EXHIBIT (tas78a04) and a list of cities in Montana where ethanol could be obtained, EXHIBIT (tas78a05).

{Tape : 1; Side : A; Approx. Time Counter : 19 - 28}

Proponents' Testimony:

Mike Allan, Ethanol Producers and Consumers, rose in support of HB 644. He recounted the benefits of using ethanol products, affirming the bill would address the construction of an ethanol plant in the state of Montana. He voiced his concerns about being able to receive the tax money rebate without being a licensed distributor. He requested the bill be amended to address his concern.

Carol Lambert, Woman Involved in Farm Economics (WIFE), avowed support for HB 644. She maintained ethanol would be good for Montana's agricultural economy as well as the environment.

{Tape : 1; Side : A; Approx. Time Counter : 28 - 32}

Bob Stephens, Montana Grain Growers Association, presented support for HB 644, asserting the bill would go into effect when a Montana Ethanol plant would begin to produce ethanol in the state. He apprized the committee that the Montana Grain Growers did not support the funding source. He argued the monies could

come from another means, other than the Research and Commercialization fund.

Nancy Schlepp, Montana Farm Bureau Federation, provided support for HB 644. She submitted written testimony, **EXHIBIT (tas78a06)**.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 6}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. EMILY STONINGTON wondered if gasohol could be used in any engine. **REP. PATTISON** assured her that he had used gasohol in his snowmobile, chainsaw and personal vehicles.

SEN. STONINGTON referred to page 18 of the bill, regarding the change in the use of the research and commercialization fund, declaring she would have a major problem with the change. **REP. PATTISON** responded the parameters of the trust would meet the research and commercialization projects suggested in the bill.

SEN. STONINGTON cited her belief that the research fund was intended for research, not for reimbursement of taxes.

SEN. JOHN BOHLINGER enjoined his hope for an ethanol plant in the state. He questioned what price stability would be established on grain prices if a major plant would be constructed in Montana. **REP. PATTISON** responded that ethanol would double the price of grain, while explaining the process of changing grain to ethanol.

SEN. BOHLINGER avowed support for the plant, maintaining it would be a benefit to Montana grain growers. **REP. PATTISON** reiterated the bill would not take effect until an ethanol plant would be producing ethanol in Montana.

SEN. BOHLINGER reminded the committee that the plant was not in production so currently taxes would not be collected. He argued that it would be difficult to raise or reduce the tax after the plant was in production. **REP. PATTISON** explained that the difference between a 4 cent tax and 13 cents would equate to \$300,000.

SEN. STONINGTON urged caution when committing money to the project, since the money would have to come out of the highway special levy fund. **CHAIRMAN DEPRATU** instructed the committee

that a fiscal note had not been received at this time. **SEN. STONINGTON** maintained a fiscal note would not be forthcoming, since the bill would be funded from the research and commercialization fund.

SEN. COLE surmised that **Mr. Bob Stephens** had a problem with the bill. **Mr. Stephens** professed his belief that the money should not come from the Research and Commercialization fund.

{Tape : 1; Side : B; Approx. Time Counter : 6 - 27}

Closing by Sponsor:

REP. PATTISON closed on HB 644. He suggested the bill would address various needs in the state, allowing the economy to grow using a renewable Montana resource.

{Tape : 1; Side : B; Approx. Time Counter : 27 - 32}

EXECUTIVE ACTION ON HB 644

Motion: **SEN. STONINGTON** moved that **HB 644 BE AMENDED TO REMOVE THE RESEARCH AND COMMERCIALIZATION TRUST FUND AS THE FUNDING SOURCE IN THE BILL.**

Discussion:

SEN. STONINGTON maintained that the research and commercialization trust fund would provide a predictable and stable source of funding for research and commercialization projects conducted in the state. Matching monies would be provided for research projects aimed at commercialization that would bring money back to the state. She avowed that the research would help drive the Montana economy.

SEN. PETE EKEGREN asked for comments from **Bob Stephens**. **Mr. Stephens** commented that the bill would not go into effect unless the state would construct an ethanol plant. He maintained the state Highway Department had a fund that was to pay producers of ethanol 30 cents per gallon, up to three million dollars per year. He suggested reducing the 30 cents to 26 cents, allowing the 4 cents to be reimbursed to ethanol retailers.

SEN. COLE mentioned that research should be critiqued to see how it would benefit the agricultural community. He rationalized that research should be realistic and balanced.

SEN. STONINGTON instructed that the research money would go into public private partnerships that would build alliances with high-tech businesses. Twenty percent of the money in the state earmarked for research is dedicated to agricultural research. She argued that a direct reimbursement for a tax cut would not turn over and over in the economy.

Vote: **SEN. STONINGTON'S** motion that **HB 644 BE AMENDED TO REMOVE THE RESEARCH AND COMMERCIALIZATION TRUST FUND AS THE FUNDING SOURCE IN THE BILL** passed unanimously.

CHAIRMAN BOB DEPRATU stated his desire to develop a source of funding for HB 644. **SEN. BOHLINGER** suggested the committee entertain a conceptual motion to adopt a funding formula referenced by **Bob Stephens**.

CHAIRMAN DEPRATU indicated he would have trouble supporting the motion because he felt a commitment had been made for 30 cents. He debated whether the commitment would jeopardize the financing.

SEN. STONINGTON reported the sponsor had indicated the desire to get the bill on the books, without fighting the percentage of the reduction. She suggested a possible reduction of the tax incentive would give the sponsor an additional two years to seek alternative revenue sources.

SEN. BILL GLASER suggested passing the bill without funding.

SEN. PETE EKEGREN agreed with comments made by **SEN. STONINGTON**.

Motion: **SEN. COLE** moved that **HB 644 BE AMENDED (HB014801.ace), EXHIBIT (tas78a07)**.

Discussion:

SEN. COLE asked that **Dave Galt, Director of Transportation**, explain the amendment. **Mr. Galt** cited concerns there would be a fund balance in the highway special revenue account that could finance the construction industry in the state of Montana. He purported the state would face highway re-authorization in 2004, which could result in changes in the highway program. The line item in their cash flows would require them to pay 30 cents per gallon for every gallon of ethanol produced in Montana up to three million dollars per plant with a total cap of six million dollars. He maintained the money wouldn't be needed for 24 months, indicating the Department of Transportation would accept the amendment.

REP. PATTISON related the amendment would be a friendly amendment that he could support.

Vote: SEN. COLE'S motion that HB 644 BE AMENDED (HB014801.ace), EXHIBIT (7) passed unanimously.

Motion/Vote: SEN. COLE moved that HB 644 BE AMENDED TO ADD THE WORDS "ALCOHOL OR DIESEL". Motion carried unanimously.

Motion/Vote: SEN. COLE moved that HB 644 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 20}

EXECUTIVE ACTION ON HB 600

Motion/Vote: SEN. ELLIS moved that HB 600 BE AMENDED (HB06004.ajm). Motion carried unanimously.

Discussion:

CHAIRMAN DEPRATU suggested limiting the bill to 25 megawatts. SEN. ALVIN ELLIS queried how much a railroad engine would generate. It was suggested they could be used to power school generators.

SEN. COLE voiced his hope that the bill would go to conference committee. SEN. ELLIS wondered about the 25 megawatt figure. CHAIRMAN DEPRATU explained that 25 megawatts was strictly arbitrary.

SEN. ELLIS suggested changing 25 megawatts to 30 megawatts, which would keep the bill alive for further consideration on the floor.

Motion/Vote: SEN. DEPRATU moved that HB 600 BE AMENDED TO LIMIT THE NUMBER OF MEGAWATTS TO 30. Motion carried unanimously.

Motion/Vote: SEN. ELLIS moved that HB 600 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 20 - 29}

SEN. ELLIS agreed to carry the bill.

EXECUTIVE ACTION ON HB 619

Motion/Vote: SEN. STONINGTON moved that HB 619 BE AMENDED (HB061902.alh) **EXHIBIT** (tas78a08). Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 29 - 32}

Motion/Vote: SEN. STONINGTON moved that HB 619 BE AMENDED (HB061901.alh) **EXHIBIT**(tas78a09). Motion carried unanimously.

Motion/Vote: SEN. STONINGTON moved that HB 619 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SEN. STONINGTON agreed to carry the bill.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 4}

EXECUTIVE ACTION ON HB 623

Motion: SEN. BOHLINGER moved that HB 623 BE CONCURRED IN.

Discussion:

SEN. BOHLINGER stated his belief that passage of the bill would be a win-win situation. The employee would win because the woman would be able to provide for her child. The employer would win because the parent would be on the job at all times. The child would win because the mother would be close at hand.

Substitute Motion/Vote: SEN. STONINGTON made a substitute motion that HB 623 BE AMENDED TO STRIKE THE TERMINATION DATE ON LINE 26, PAGE 6. Substitute motion carried unanimously.

Motion: SEN. STONINGTON moved that HB 623 BE AMENDED (HB062301.alh) **EXHIBIT**(tas78a10).

Discussion:

SEN. STONINGTON felt the amendment would add an incentive to make a difference in the tax credit given to employers. SEN. GLASER voiced his opposition with the amendment, surmising that the added cost would kill the bill.

CHAIRMAN BOB DEPRATU felt the bill would be necessary to help working parents. He purported he would oppose the amendment while supporting the bill. SEN. DAN HARRINGTON agreed that it would be beneficial for children to be in day-care centers close to their parent's workplace.

Vote: SEN. STONINGTON'S motion that HB 623 BE AMENDED (HB062301.alh) failed 2-6 with Harrington and Stonington voting aye.

Motion/Vote: SEN. STONINGTON moved that HB 623 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SEN. STONINGTON agreed to carry the bill.

{Tape : 2; Side : B; Approx. Time Counter : 4 - 10; Comments : THIS IS THE END OF TAPE 2. THE HEARING CONTINUES ON TAPE 3, SIDE A.}

EXECUTIVE ACTION ON HJR 2

SEN. COLE MOVED HJR 2.

Motion/Vote: SEN. COLE moved that HJR 2 BE AMENDED (HB000222.arl) **EXHIBIT**(tas78a11). Motion carried unanimously.

Motion/Vote: SEN. STONINGTON moved that HJR 2 BE AMENDED (HB000226.arl) **EXHIBIT**(tas78a12). Motion carried unanimously.

Motion/Vote: SEN. GLASER moved that HJR 2 BE AMENDED (HB000224.arl) **EXHIBIT**(tas78a13). Motion carried unanimously.

Motion/Vote: SEN. GLASER moved that HJR 2 BE AMENDED (HB000225.arl) **EXHIBIT**(tas78a14). Motion carried unanimously.

Motion: SEN. GLASER moved that HJR 2 BE AMENDED (HB000228.arl) **EXHIBIT**(tas78a15).

Discussion:

SEN. JON ELLINGSON opposed the amendment as being too conservative. He stated his positive impression of Terry Johnson's presentation, believing that the uncollected funds should be redeposited into the base. He argued that the standard estimation procedures for estimating an increase in revenue from income tax would produce a higher figure.

Substitute Motion: SEN. ELLINGSON made a substitute motion that HJR 2 BE AMENDED (HB000229.arl).

Discussion:

SEN. ELLIS rose in opposition to the substitute motion, suggesting that the growth factors for the state may not be accurate.

SEN. HARRINGTON voiced support for the amendment. **SEN. GLASER** professed his belief that the cash flow would not be available to support the amendment. He declared the state could be short 8.9 million in the second year of the biennium due to the condition of the stock market.

SEN. COLE echoed previous concerns, maintaining the bill should contain the conservative estimate.

SEN. STONINGTON referred to page 19 of the book, clarifying that the growth assumption should be used to project the amount of revenue in the future.

SEN. HARRINGTON wondered if the committee was trying to protect the fund or if the money would be given to education. **CHAIRMAN DEPRATU** suggested that all committee members were trying to do the right thing for education. He stated his opposition to the amendment, voicing concerns about the future of the stock market.

SEN. ELLIS asserted that 10% of the population were currently paying half the income taxes in the state. Revenue would get a delayed signal concerning the tax base. He contended more people were working but the per capita income had risen less than half percent.

SEN. BOHLINGER stated opposition to the amendment, indicating that education collectibles didn't always get collected. He recommended the committee take the conservative approach because of the uncertainties in the economy.

SEN. ELLINGSON suggested the committee could split the difference between 29.4 million and 9 million dollars. He reiterated the conservative elements that were built into the 29.4 million dollar estimate. He stated that the uncollected revenue would be added into the base. He also maintained the revenue in the first quarter looked good, which would provide an optimistic outlook.

SEN. ELLIS asserted that education would get more money than predicted earlier in the session.

Vote: **SEN. ELLINGSON'S** substitute motion that **HJR 2 BE AMENDED (HB000229.ar1)** failed 3-6 with Ellingson, Harrington and Stonington voting aye.

Substitute Motion: **SEN. STONINGTON** made a substitute motion that **HJR 2 BE AMENDED TO ADD 19 MILLION DOLLARS.**

{Tape : 3; Side : A; Approx. Time Counter : 0 - 32}

Discussion:

SEN. GLASER contended 9 million dollars would be the only amount available to schools since capital gains could be reduced by 18.2% in the next 6 months.

SEN. ELLINGSON spoke in favor of the amendment. He addressed the concerns with the capital gains issues, concluding that it would be difficult to predict if a rising stock market would produce more capital gains tax or a falling stock market would produce less. He maintained many individual factors influence the stock market.

CHAIRMAN DEPRATU voiced his concerns that many businesses had overpaid their estimates. He contended that income had dropped during the last half of the year.

Vote: **SEN. STONINGTON'S** substitute motion that **HJR 2 BE AMENDED TO ADD 19 MILLION DOLLARS** failed with Ellingson, Harrington and Stonington voting aye.

Vote: **SEN. GLASER'S** motion that **HJR 2 BE AMENDED (HB000228.ar1)** passed unanimously.

Motion: **SEN. ELLIS** moved that **HJR 2 BE AMENDED (HB000223.ar1)** **EXHIBIT (tas78a16)**.

Discussion:

SEN. STONINGTON questioned whether the 4.5 million would be a county adjustment in the coal tax income that would move into the ending fund balance for the current fiscal year and where the remaining 1.1 million would originate. **SEN. GLASER** instructed that page 6 on the financial audit would explain the origin of the 1.1 million.

Vote: **SEN. ELLIS'** motion that **HJR 2 BE AMENDED (HB000223.ar1)** passed unanimously.

Motion: **SEN. ELLIS** moved that **HJR 2 BE AMENDED (HB 000231.ar1)** **EXHIBIT (tas78a17)**.

Discussion:

SEN. ELLIS explained that the amendment would require that department to notify the Legislative Fiscal Division on a quarterly basis, by tax type, of aggregate audit settlements greater than \$250,000 while maintaining the privacy of the

individual. The amendment would also address the burdensome nature of the recording system required to record the audit collections.

SEN. COLE avowed support for the amendment.

SEN. ELLINGSON voiced concerns with the quarterly reports, arguing that the system could delay the update for ninety days. He reasoned reporting on a monthly basis would allow the information to be rendered in a more timely fashion. **SEN. ELLIS** agreed with a shorter reporting period but reiterated the capability was not currently in place to report the data quickly.

CHAIRMAN DEPRATU asserted that the new CEO at the Department of Revenue should be given time to adjust and to develop the program and integrate his style of management.

Vote: **SEN. ELLIS'** motion that **HJR 2 BE AMENDED (HB 000231.ar1)** passed unanimously.

Motion/Vote: **SEN. ELLIS** moved that **HJR 2 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

SEN. ELLIS agreed to carry the bill.

{Tape : 3; Side : B; Approx. Time Counter : 0 - 22}

EXHIBIT (tas78a18)

ADJOURNMENT

Adjournment: 11:40 A.M.

SEN. BOB DEPRATU, Chairman

LINDA ASHWORTH, Secretary

BD/LA

EXHIBIT (tas78aad)